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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/573,674	10/25/2006	Stefan Haaks	2003P14790WOUS	5072
22116 7590 07/10/2008 SIEMENS CORPORATION INTELLECTUAL PROPERTY DEPARTMENT 170 WOOD AVENUE SOUTH ISELIN, NJ 08830				
EXAMINER				
DESTA, ELIAS				
ART UNIT		PAPER NUMBER		
2857				
MAIL DATE		DELIVERY MODE		
07/10/2008		PAPER		

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/573,674
Filing Date: October 25, 2006
Appellant(s): HAAKS ET AL.

Daniel J. Ryan
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed May 7, 2008 appealing from the Office action mailed February 29, 2008.

Real Party in Interest

1. A statement identifying the real party in interest is contained in the brief.

Related Appeals and Interferences

2. The Examiner is not aware of any related appeals, interferences, or judicial proceedings, which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

Status of Claims

3. The statement of the status of the claims contained in the brief is correct.

Status of Amendments After Final

4. The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

Summary of Claimed Subject Matter

5. The summary of claimed subject matter contained in the brief is correct.

Grounds of Rejection to be Reviewed on Appeal

6. The appellant's statement of the ground of rejection to be reviewed is correct.

Claims Appendix

7. The copy of the appealed claims contained in the appendix to the brief is correct.

Evidence Relied Upon

8. The following is a listing of the evidence (e.g., patents, publications, Official Notice, and admitted prior art) relied upon in the rejection of claims under appeal.

6,909,990 Okazaki et al. 6-2005

Grounds of Rejection

9. The following grounds of rejection are applicable to the appealed claims:

Claim rejection – 35 U.S.C. 102

- 9.1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) The invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

- 9.2. Claims 19-38 are rejected under 35 U.S.C. 102(e) as anticipated by Okazaki et al. (U.S. Patent 6,909,990, hereon Okazaki).

In reference to claims 19, 21 and 32: Okazaki teaches a method for causes of disruptive factors in a plant (or installation) under investigation (see Okazaki, Fig. 4 and column 1, lines 6-12). The method comprises:

- Gathering relevant causation data performance limits for plurality of related systems or plants (installations) [see Okazaki, Fig. 7, plant data collecting (unit 8), and column 5, line 62 to column 6, line 6];

- Generating a questionnaire from the causation data wherein the questionnaire only contains questions relating to the plants under investigation (see Okazaki, Fig. 5, section 47 and column 8, lines 27-67);
- Collecting responses to the questionnaire questions from employees of the plant under investigation (see Okazaki, Fig. 5, section 47, answers and column 8, lines 27-67, multiple choice type answers);
- Analyzing the employee responses to the questionnaire (see Okazaki, Fig. 5, section 49, diagnostic results and column 9, lines 27-59); and
- Determining the cause of disruptive factors of the plant based on the questionnaire analysis (see Okazaki, Fig. 6, section 55 and column 9, line 60 to column 10, line 19).

Okazaki teaches a system having at least two computer systems related to the user's system (5), which consist of the diagnosis process and a plant data collecting and processing computer (2) (see Fig. 7, systems 2 and 5). The arrangement provides a first database (computer 8 necessarily includes a database to manage data collected from individual sensors to the plant machinery (6)) and a second database in the diagnosis computer (3) which is composed of a single or plurality of computers in charge of different functions, such as transmission, diagnosis and data storage for plural locations or plants (see Okazaki, column 6, lines 45-62). The questionnaire consists of questions related to the installation under investigation (see Okazaki, column 8, lines 27-67).

With regard to claims 20 and 33: Okazaki further teaches that the disruptive factors are selected from the group consisting of malfunctions and performance limits (see Okazaki, Fig. 6, data related to abnormal vibration of the turbine).

With regard to claim 22: Okazaki further teaches that the improvement measure data is stored in a database (see Okazaki, Fig. 5, section 47).

With regard to claim 23: Okazaki further teaches that the method includes assigning relevant causation data to plant elements (see Okazaki, Fig. 6, unit 55) wherein the data in the database contains data about plant elements occurring the plant under investigation, and the questionnaire contains questions for plant elements occurring with in the plant (installation) (see Okazaki, column 8, line 36 to column 9, line 20).

With regard to claim 24: Okazaki further teaches that the method includes assigning the causation data to target groups of the plant (installation) (see Okazaki, column 10, lines 20-55); and generating the questionnaire such that the questionnaire contains questions for employees in the target groups to be questioned, wherein the plant under investigation data contains details about the target groups to be questioned (see Okazaki, column 10, line 55 to column 11, line 8).

With regard to claim 25: Okazaki further teaches that the questionnaire is directed to drive components of the plant (installation) (see Okazaki, column 10, lines 60-62, e.g., rotor, coupling etc...).

With regard to claim 26: *Okazaki* further teaches that the responses of the employees are collected via interviews (see *Okazaki*, column 5, lines 52-61 and column 8, line 35 to column 9, line 20).

With regard to claim 27: *Okazaki* further teaches that the response of the employees' are collected via a data network (see *Okazaki*, Fig. 1).

With regard to claims 28 and 34: *Okazaki* further teaches that the relevant causation data is obtained from malfunction reports of plants (or installation) (see *Okazaki*, Figs. 4 and 5).

With regard to claim 29: *Okazaki* further teaches that a service provider implements the technical service (see *Okazaki*, column 5, lines 52-61).

With regard to claim 30: *Okazaki* further teaches that the assessment of the technical state of the installation is made based on the responses of the employees and with defined assessment rules (see *Okazaki*, column 12, line 50 to column 13, line 27).

With regard to claim 35: *Okazaki* further teaches that the database (the system is implemented in a computer, so a database is an inherent part of a computer system) contains details about the plant elements (see *Okazaki*, Figs. 4 and 5, section 47) in the plant under investigation, and questionnaire contains questions for plant (installation) elements occurring in the plant (see *Okazaki*, Fig. 5, and section 51 for detailed diagnostic).

With regard to claim 36: *Okazaki* further teaches that the data communication network connects the output unit and the input unit, which is accessible by the employees (see *Okazaki*, Fig. 7).

With regard to claim 37: Okazaki further teaches that the database is connected to the plurality of plants via a data network (see Okazaki, Fig. 6 and 7, a sample of page for plant number xx is used as an example).

With regard to claim 38: Okazaki further teaches that the questionnaire generated contains questions for the employees in the target groups to be questioned (see Okazaki, Fig. 2, steps 2 and 3).

Response to Argument

10. The issue raised by appellant is responded to under the “Grounds of Rejection to be Reviewed on Appeal” portion above; further, the following “Response to Argument” illustrate and highlight the distinction between the argument and what is being claimed:

Unlike applicant's argument (see Appeal's Brief, page 7, 3rd paragraph), Okazaki does contain requisite disclosure to sustain an art rejection under 35 U.S.C. 102. All the requisite “elements” are either explicitly or inherently taught in Okazaki.

- 10.1. a) In reference claim 19: Okazaki teaches a method for determining causes of disruptive factors in an installation under investigation, such as a turbine in a power generation unit (power station) (see Okazaki, Fig. 4 and column 1, lines 6-12). The method comprises: gathering and storing (see Okazaki, Fig. 7, plant data collection and processing computer (unit 8) and column 5, lines 62 to column 6, line 6) in a first database (a database is a necessary present and inherent to the design and implementation because the system includes a gathered data in a computer system) relevant to causation data of performance limits for a plurality of related installations because the computer in unit 8 (see

Fig. 7) is directly in communication with the diagnostic computer. Further, the system is designed to process diagnosis request and plant state variables of the plant or machinery and executes the primary diagnosis and a part of secondary diagnosis based on the plant state variables (see Okazaki, Abstract). Therefore, Okazaki discloses a database containing relevant causation data of performance limits for a plurality of installations. Further, Okazaki generates a questionnaire from a causation data wherein the questionnaire only contains questions related to the plant under investigation, such as time of occurrence of a problematic vibration related to No. 1 turbine (see Okazaki, Fig. 5, section 47 and column 8, lines 27-67). Given Okazaki's teaching of two or more diagnostic computer sub-systems and the main plant system, a separate database or (second database) to store the questionnaire specific to the installation under investigation is better managed in Okazaki because Okazaki provides user's sub-systems with a diagnosis computer having primary and secondary diagnosis (see Fig. 1, section 38). Appellant has stated that the rejection under section 102 is in error (see Brief, page 9, first paragraph); however, during reexamination, claims are given the broadest reasonable interpretation consistent with the specification and limitations in the specification are not read into the claims (In re Yamamoto, 740 F.2d 1569, 222 USPQ 934 (Fed. Cir. 1984)). Therefore, claim 19 is anticipated by Okazaki for the reasons given above.

10.2. In reference claim 32: Unlike Appellants argument (see Brief, page 9, section 7A (1) ii), Okazaki teaches "a first database that contains data about causes of

malfunctions in a plurality of installations and improvement measure data ..."

(see discussion in 10.1 above). Further, the entire system in Okazaki is implemented in a computerized diagnostic system and uses multiple systems to store data and process. The system includes a "data processing unit to generate the questionnaire from the data in the first database and a second database and to determine the cause of disruptive factors of the installation under investigation by analyzing the response of the employees (end users in the plant) to the question in the questionnaire.." because the process involves generating a questionnaire (see Fig. 5, section 47 and column 8, lines 27-67), collecting responses to the questions from employees of the plant under investigation (see Okazaki, Fig. 5, sub-section 48), analyzing the employee responses to the questionnaire (see Fig. 5, section 49, diagnosis results, with factors and evaluation) and determining the cause of the disruptive factor (Fig. 6, section 55 and column 9, line 60 to column 10, line 19). Therefore, claim 32 is anticipated by Okazaki for the reasons discussed above.

10.3. With regard to claim 21: Appellants argues that (see Brief, page 10, 7A (2)) the questionnaires in Okazaki are "prepared in advance"; although it is irrelevant for what is being argued, appellants' instant specification states that "questionnaire is generated containing questions about the possible causes". However, both Okazaki and the instant application use the same approach in generating the necessary questionnaire to carry out the plant diagnosis (see Instant Specification, pages 6-7, and paragraphs 25-26).

- 10.4. With regard to claim 20: *Okazaki* further teaches the disruptive factors are selected from the group consisting of malfunction (Fig. 6, section 11, such as the vibration phase change) and performance limits (such as vibration frequency).
- 10.5. With regard to claim 22: the argument is similar to what is being discussed in claims 19 and 31 above.
- 10.6. With regard to claim 23: *Okazaki* "[assigns] the relevant causation data [vibration phase change] to an installation element [turbine parts]..." (See *Okazaki*, Fig. 6, section 11 and 12).
- 10.7. With regard to claim 24: *Okazaki* in Fig. 6 has given an example of Plant unit: "xx Power station, No. 1 Turbine which further includes a step of assigning causation data to target groups of plant installation (see *Okazaki*, column 10, lines 20-55).
- 10.8. With regard to claim 25: as stated above, the questionnaire is directed to drive components of the plant installation (see *Okazaki*, column 10, lines 60-62, e.g., rotor, coupling, etc....).
- 10.9. With regard to claim 26: *Okazaki* teaches that "the response of the employees' are collected via interviews because the interview is conducted over the user's terminal (see column 8, line 35 to column 9, line 20).
- 10.10. With regard to claim 27: *Okazaki* teaches the sub-systems are connected via a network; therefore, the response of the employees' are collected via a data network (see *Okazaki*, Fig. 1).

- 10.11. With regard to claim 28: *Okazaki* further teaches that "the relevant causation data is obtained from malfunction" (see *Okazaki*, Figs. 4 and 5).
- 10.12. With regard to claim 29: *Okazaki* further teaches a technical service provider implements the required service (see *Okazaki*, column 5, lines 52-61).
- 10.13. With regard to claim 30: *Okazaki* teaches that the technical assessment of the installation is made based on the responses of the employees (respondents are considered employees of the plant) and with defined assessment rule (see column 12, line 50 to column 13, line 27).
- 10.14. With regard to claim 31: *Okazaki* teaches that "the questionnaire only contains ...questions for employees in the target group to be questioned" because the questions are specific a particular station and turbine number and people who work on those entities; such as to "XX power station, No. 1 turbine (see *Okazaki*, column 12, lines 50-67).
- 10.15. With regard to claim 33: *Okazaki* further teaches that "the disruptive factors are selected from the group consisting of malfunctions (Fig. 6, section 11, such as the vibration phase change) and performance limits (such as vibration frequency).
- 10.16. With regard to claim 34: *Okazaki* further teaches "the first database further contains data about causes of performance limits." (See *Okazaki*, Figs. 4 and 5).
- 10.17. With regard to claim 35: *Okazaki*, as it is stated above in "the ground of rejection", further teaches that the database (the system is implemented in a computer, so a database is an inherent or necessarily present part of the

computer system) contains details about the plant elements (see Okazaki, Figs. 4, 5 and section 47) in the plant under investigation, and a questionnaire contains questions for plant (installation) elements occurring in the plant (see Okazaki, Fig. 5, and section 51 for detailed diagnostic).

10.18. With regard to claim 36: Okazaki teaches generic data communication network that connects the output unit and the input unit, which is accessible by employees because as noted above, the system includes "User System" and "Plant System" with two separate computer systems, it is known in the art that for a system to establish a communication network, it has to have at least two computer systems connected by some network connection, hence the claim is anticipated by Fig. 7 of Okazaki.

10.19. With regard to claim 37: Okazaki further teaches that the database is connected to the plurality of plants via data network (see Okazaki, Figs. 6 and 7, such as a sample of page for a plant number xx is used as an example).

10.20. With regard to claim 38: Okazaki further teaches that "the questionnaire being generated only contains questions for employees in the target groups to be questioned because the questions are specific a particular station and turbine number and people who work on those entities; such as to "XX power station, No. 1 turbine (see Okazaki, column 12, lines 50-67).

Related Proceeding (s) Appendix

11. No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of the examiner's answer.

Art Unit: 2857

For the above reasons, it is believed that the rejections should be sustained

Respectfully submitted,

E.D., June 27, 2008

Conferees:

- _____
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